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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,668	09/30/2003	Juan J. Becerra	107059-0012P1	5796

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CESARI AND MCKENNA, LLP
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EXAMINER

ALEJANDRO, RAYMOND

ART UNIT	PAPER NUMBER
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1745

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/675,668	BECERRA ET AL.	
	Examiner	Art Unit	
	Raymond Alejandro	1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 and 26 January 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This correspondence is provided in reply to applicant's amendment dated 01/26/07. The applicant has overcome the objections but not the art rejection. Refer to the abovementioned amendment for more information about applicant's rebuttal arguments and remarks. Therefore, the present claims are finally rejected over the previous ground of rejection as set forth infra and for the reasons of record:

Election/Restrictions and Claim Disposition

1. Non elected claims 7-14 have been cancelled.

Priority

2. This application is a continuation-in-part of Application No. 10/041301, filed 01/08/02.

Applicant is kindly reminded that this application repeats a substantial portion of the foregoing prior application; and adds and claims additional disclosure not presented in the prior application. Since this application names an inventor or inventors named in the prior application, it constitute a continuation-in-part of the prior application. However, the disclosure of the prior-filed application, Application No. 10/041301, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. For instance, the inventive concept of claim 1, thereby all of its dependent claims, specifically claiming the particular container having "*the first inner bladder*" in combination (as a whole) with "*the second inner bladder for receiving effluent from said fuel cell through an effluent inlet leading from said fuel cell into said fuel container*", the specific "*coupling to either*

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the anode/cathode aspects”, and the use of “*a pump*” are not supported by the parent case. The closest disclosure of the Application’301 which might provide support is the embodiments disclosed and illustrated in Figures 11-12. However, a careful reading and understanding thereof fails to provide reasonable support for the inventive concept at hand. At most, Figure 11 only supports a fuel container comprising a delivery system and a single inner cartridge enclosing a single collapsible bag or flexible bladder and delivery of fuel without the need of a pump. On the other hand, Figure 12 at best supports a fuel container and a fuel assembly including a disposable container that encloses dual fuel bladders (or bags) to enable delivery of different fuel concentrations to the fuel cell. However, the embodiments of Figures 11-12, as illustrated and discussed in the specification of Application’301, fall short of enabling or furnishing a fuel container comprising dual fuel bladders (or bags) for simultaneous delivery of fuel to the fuel cell and removal (receiving) of exhaust (effluent) from the fuel cell as instantly claimed. In addition to that, the specific coupling to the anode/cathode aspect and the specific use of a pump is not supported, either. Therefore, domestic priority under 35 USC 120 is not granted to the specific inventive concept at issue.

Drawings

3. A replacement sheet of a drawing was received on 01/26/07. These drawings are acceptable.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

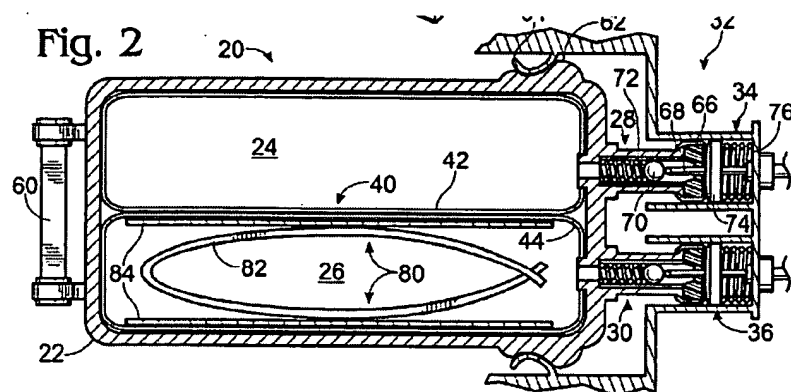
5. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Prasad et al 2003/0082427.

The present application is geared toward a liquid fuel cell system wherein the disclosed inventive concept comprises the specific fuel container having first and second inner bladders.

As to claim 1:

Prasad et al disclose a fuel cell system including a direct methanol fuel cell (P0025, 0045); the fuel cell includes electrode and an electrolyte disposed therebetween (P0002); a fuel supply including fuel storage area 24 configured to hold a fuel solution, a fuel solution outlet 28 configured to pass the fuel solution from the fuel storage area 24; a waste storage area 26, a waste inlet 30 configured to pass waste into the waste storage area 26 and a movable barrier 40 separating the fuel storage area 24 and the waste storage area 26 and configured to move as fuel solution is passed from the area 24 and waste solution is passed into area 26 to simultaneously decrease the volume of area 24 and increase the volume of area 26 (ABSTRACT).

Figure 2 clearly illustrates the fuel container design:



As to claims 2-3:

Prasad et al disclose that waste storage area 26 receives waste from the fuel cell (ABSTRACT/P0036). *Thus, it can be asserted that waste storage area 26 receives fuel cell exhaust from both the anode and the cathode.*

As to claim 4:

Prasad et al disclose the presence of a pressurizer or any suitable mechanism to pressurize fuel storage area; the pressurizer can be in the form of a spring (P0039).

As to claims 5-6:

The fuel delivery system of Prasad et al can also include a pump (P0056) and/or valve means associated with respective outlet/inlets (P0036). *These features permit to control the fuel/effluent flow. The limitation "valve means associated with..." has not been construed as invoking 112, 6th paragraph because it does not comply with at least one of three prongs requirement.*

Thus, the present claims are anticipated.

Response to Arguments

6. Applicant's arguments filed 01/26/07 have been fully considered but they are not persuasive.

7. Applicant is of the opinion that the present claims are unanticipated by the prior art of record "*Because Prasad requires this movable barrier, the design also requires pressurizer 80*", and because "*Applicant's Specification describe...that the effluent bladder 1305b is not under the application of force because the effluent is desirably entering into the bladder, rather than being expressed from it*". In response, the examiner points out that the present claims do not exclude the use of a pressurizer. Therefore, whether Prasad requires a pressurizer is irrelevant to the patentability of the present claims as they do not include any limitation whatsoever to disclaim such a feature. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "... *the effluent bladder 1305b is not under the application of force...*" and "*exclusion of a pressurizer*") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

8. With respect to applicant's arguments that the amendment to claims now reads "*said second inner bladder being disposed directly adjacent to said first inner bladder such that as effluent is received from the fuel cell, the second inner expands displacing fuel from said first inner bladder to deliver fuel to said fuel cell*", the examiner asserts that Prasad's invention also contemplates such a limitation. For instance, the invention of Prasad includes a fuel supply including fuel storage area 24 configured to hold a fuel solution, a fuel solution outlet 28

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configured to pass the fuel solution from the fuel storage area 24; a waste storage area 26, a waste inlet 30 configured to pass waste into the waste storage area 26 and a movable barrier 40 separating the fuel storage area 24 and the waste storage area 26 and configured to move as fuel solution is passed from the area 24 and waste solution is passed into area 26 to simultaneously decrease the volume of area 24 and increase the volume of area 26 (ABSTRACT). Now, to the extent that applicant could have intended to argue that the language “*directly adjacent*” further distinguishes over the prior art of record, the examiner merely contests that said language cannot be construed as “*directly contacting/touching one another (i.e. first/second bladders)*” as implicitly argued by the applicant.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Alejandro whose telephone number is (571) 272-1282. The examiner can normally be reached on Monday-Thursday (8:00 am - 6:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Raymond Alejandro
Primary Examiner
Art Unit 1745


RAYMOND ALEJANDRO
PRIMARY EXAMINER